

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Carl Banks 18816 Waterbury Ave. Maple Hts., OH 44137) Case No.
)
) Judge:
)
Plaintiff,) COMPLAINT
)
-vs-) JURY TRIAL DEMAND
)
Swagelok Mfg. Co. 358 Bishop Rd. Highland Hts., OH 44143)
)
)
Defendant.)
)

1. This is an action under Title VII of the Civil Rights Act of 1964, (Title VII), as amended, and the Civil Rights Act of 1991 for injunctive and declaratory relief and money damages for Defendant's violation of Plaintiff's rights, as well as claims pursuant to The Age Discrimination in Employment Act (ADEA), and The Americans with Disabilities Act (ADA), and Ohio state law claims.

JURISDICTION AND VENUE

2. This action is instituted and authorized by said statutes as well as the law of the State of Ohio.

3. Jurisdiction of this Court to hear and determine these claims is based on 28 U.S.C. § 1331 and 28 U.S.C. § 1343 as well as 29 U.S.C. § 621 of the ADEA.

4. Supplemental and/or "pendant" jurisdiction is invoked pursuant to 28 U.S.C. § 1337.

5. A declaratory judgment is sought pursuant to 28 U.S.C. §§ 2201 and § 2202.

6. Venue is proper in this Court as all the acts complained of herein occurred in Ohio, within the jurisdiction of this Court.

THE PLAINTIFF

7. The Plaintiff resides in Maple Hts., Ohio and was born on September 7, 1968. He has worked for the Defendant as a permanent employee since January 2020 as a primary operator in Cleveland, Ohio until on or about February 25, 2022, when he was terminated.

8. At all times relevant plaintiff suffered from lumbar spinal stenosis which affects his daily activities and which qualifies as a disability under the law and for which he sought an accommodation from the Defendant.

9. Plaintiff timely filed his charge of discrimination with the Equal Employment Opportunity Commission (EEOC) on or about July 26, 2022, EEOC Charge No. 532-202201601 alleging discrimination based on disability, retaliation and age having contacted and written the EEOC in March 2022 alleging that which is in his charge. A copy of his charge marked as Exhibit A is attached hereto.

10. Plaintiff received a Notice of Right to Sue on or after August 2, 2022 from the EEOC giving him ninety (90) days to file suit. A copy of the notice is attached as Exhibit B.

STATEMENT OF THE CLAIM

COUNT I – AMERICANS WITH DISABILITY ACT

11. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

12. Defendant is an employer under the ADA and Title VII of the Civil Rights Act of 1964.

13. Plaintiff says the Defendant failed to accommodate him for his disability and terminated him because of his disability as he continuously asked the Defendant to accommodate him by securing a chair and/or other aids to help him to do his job successfully. Plaintiff also says he failed to receive training by the defendant or refused to help him when needed because of his disability.

14. Plaintiff was fully capable of doing his job if the defendant had accommodated him as requested but instead he was terminated.

15. Plaintiff also alleges his termination was in violation of the law as it was in retaliation for his continuous request for accommodation to his immediate supervisor and others in the organization.

16. As a result of Defendant's actions and inactions, Plaintiff suffered significant emotional distress, lost income and promotional opportunities, and other compensatory damages.

COUNT II - AGE DISCRIMINATION IN EMPLOYMENT ACT

17. Plaintiff adopts the previous allegations and incorporates them by referenced as if fully set out herein.

18. Plaintiff is a 54 year-old male citizen of the United States and resident of the City of Maple Heights in the State of Ohio.

19. Defendant is an employer under the law.

20. Plaintiff alleges his termination was in violation of ADEA as younger co-workers were not terminated under similar circumstances.

COUNT III - OHIO DISABILITY AND AGE DISCRIMINATION O.R.C. § 4112.99

21. Plaintiff hereby reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

22. Plaintiff brings this action under Ohio Revised Code § 4112.99 and under Chapter 4112 of the Ohio Revised Code which prohibit acts of employment discrimination in Ohio on the basis of age, disability and in retaliation for pursuing a request for accommodation for his physical disability.

23. Defendant violated Ohio law in that they terminated Plaintiff relative to others as previously set out herein.

COUNT IV - OHIO COMMON LAW

24. Plaintiff incorporates the preceding causes of action and the related paragraphs as if fully written herein.

25. Plaintiff brings this action under the Court's pendent powers to herein enforce violations of Ohio's law. The acts which Plaintiff complains in the preceding causes of action are in violation of the Ohio Civil Rights Act and the Ohio age discrimination laws prohibiting discrimination on the basis of disability and/or age and/or retaliation and are in violation of Ohio Common law for wrongful discharge.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Declare the policies and practices of the Defendant, as described herein to be unlawful and in violation of federal and state law;
- B. Grant Plaintiff a permanent injunction, prohibiting Defendant from engaging in any policy or practice which discriminate on the basis of disability or age;
- C. Order Defendant to make Plaintiff whole, by rehiring the Plaintiff with appropriate back pay, front pay and benefits, in amounts to be determined at trial as well as his seniority;

- D. Award compensatory and emotional distress damages in an amount to be proven at trial;
- E. Award Plaintiff pre-judgment and post judgment interest on all sums awarded;
- F. Award Plaintiff the costs of this action, including costs and reasonable attorneys' fees; and
- G. Grant such other legal and equitable relief as is necessary and proper, including reasonable attorney fees.

JURY TRIAL DEMANDED

Plaintiff requests a jury trial on all questions of fact raised by her Complaint.

Respectfully submitted,

/s/ Alan I. Goodman

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